0 Torts/42

File No.

Legal Department

A **BRANCH**

Subject:-

Opinions Regarding

Torts

P 3

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Gem. 1944-0

1-99-A

C O N T E N T S.

Legal Department File No. C . Torts. /42.

Sr. No.	Comp. No.	Subject.	Pages.
		Opinions under regarding Torts.	
1)	C.No. 2617/24-3-42.	Sec. 21(1)(N) of the Workmen's compensation Act, 1923. Question regarding quantity of compensation to the deceased who employed otherwise than for the purposes of the employer's trade or business.	1-2.
2)	C.No. 3964/12-5-42.	Regarding bringing an action for damages on account of tort Question regarding payment of compensation for tort a d of the allowances payable to the Afghan Refugees.	3-4

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Office of the R.L.A.

The deceased having been employed otherwise than for the purposes of the employer's trade or business and the employment having been of a casual nature, he will not be a workman within the meaning of section 2(1)(n) of the Workmen's Compensation Act, 1923. Consequently his dependants will not be entitled to any compensation under that Act. As the death was not due to any wrongful act, neglect or default no suit will be maintainable under the Indian Fatal Accidents Act, 1855. (See Iyer's Law of Torts, page 61). Hence, if, as has been reported by the District Magistrate the death of Sadashiv Haldankar in the present instance was caused by pure accident, no suit for compensation will lie against 2nd Lt. Wright.

Sd/- 23/3
Remembrancer of Legal Affairs.

W.F. to R.L.(Spl.), No. 2617, dated the 24th March 1942.

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4c.

Office of the P.L.A.

The view expressed by Chief Secretary at page 52 ante that the only remedy open to Dr. Arlikatti is to institute a civil suit for damages appears to be correct. Bringing an action for damages on account of tort is one of the Judicial remedies open to a Person affected. When a tort is also a crime, the remedy of criminal prosecution is also available. (Iyer's Law of Torts, P. 651). This latter remedy has however to be resorted to first. If a person injured brings an action, he must show that the offender had been convicted (Iyer, P. 674). In this case as the Afghan Refugees have been convicted by the Sessions Judge, Belgaum, the only remedy open to Dr. Arlikatti is to institute civil proceeding for damages against the afghan refugees and under the Rules regarding Afghan Refugees no petition can be made to the Governor General for payment of Compensation for tort out of the allowances payable to the Afghan refugees. The allowances are fixed for the support of the State prisoners under section VII of Regulation III of 1818 and as such are unattachable (See rule 2 in Chapter IV of Rules Regarding Afghan Refugees.

Sd/- 11/5

Remembrancer of Legal Affairs.

U.O. to P. and S.D., No: 3964, dated the 12th May 1942.

N.V.L.